STEVEN Y. HAN, ESQ. (SBN 205010)
THE HAN LAW GROUP,
A Professional Corporation
515 S. Flower Street, 36th Floor
Los Angeles, CA 90071
Telephone: (213) 986-2350
Facsimile: (213) 784-2380

Attorneys for Plaintiff
Dale Tiffany, Inc., a California corporation

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DALE TIFFANY, INC., a California corporation, Plaintiffs, v. DYNAMIC WAY, a business entity form unknown; and DOES 1 through 50, inclusive Defendants	CASE NO.: 2:17-cv-00529 **COMPLAINT FOR:** **1) COPYRIGHT INFRINGEMENT;** **2) COMPARATIVE COPYRIGHT INFRINGEMENT;** **3) VICARIOUS COPYRIGHT INFRINGEMENT** **DEMAND FOR JURY TRIAL**

Plaintiff Dale Tiffany, Inc., a California corporation ("Plaintiff") hereby alleges as follows:

PRELIMINARY STATEMENT

1. This is an action by Plaintiff to recover damages arising from infringement of Plaintiff's copyrights in its creative works by Defendant Dynamic Way, a business entity form unknown ("Dynamic") and to enjoin Dynamic from future infringement. Dynamic unlawfully and without permission or license, reproduced, distributed, and publicly displayed certain copyrighted works and derivatives therefrom belonging to Plaintiff.

THE PARTIES

2. Plaintiff is a California corporation with its principal place of business located at 14765 Firestone Boulevard, La Mirada, CA 90638. Plaintiff produces, markets and distributes distinctive lighting products including, without limitation, floor, table and ceiling lamps utilizing unique lamp shade designs. Plaintiff is an award-winning and global leader in the field of unique and distinctive lamp shade designs, and is recognized in the industry as one of the highest quality designers and producers of lighting products.

3. Plaintiff is informed and believes and thereupon alleges that Dynamic is a business entity form unknown that maintains its principal office and place of business in Pomona, California, and which operates a wholesale business through which it engages in large scale and nationwide distribution and public display, including within the State of California, of copyrighted works including works owned by and registered to Plaintiff. Plaintiff is further informed and believes and thereupon alleges that, at all relevant times, Dynamic conducted and continues to conduct business within the judicial boundaries of this Court.

4. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants, DOES 1 through 50, inclusive, are unknown to Plaintiff, who therefore sues these defendants by their fictitious business names. Plaintiff is informed and believes, and based upon this information and belief alleges, that each of the defendants designated herein as a fictitiously named defendant is in some manner responsible for the events and happenings herein referred to, either contractually or tortuously, and caused damage to Plaintiff as herein alleged. When Plaintiff ascertains the true names and capacities of DOES 1 through 50, inclusive, it will ask leave of this Court to amend its Complaint by setting forth the same. Dynamic and Does 1 through 50 are collectively referred to herein as “Defendants”.

5. Plaintiff is informed and believes, and based upon this information and belief alleges, that at all times herein mentioned, each of the defendants was and is the agent, servant, employee, representative, partner, subsidiary, affiliate, joint venture or alter-ego of each of the other defendants, were acting within the full course and scope of such relationship, and with the full knowledge, authorization, consent and ratification, either express or implied, of each of the other defendants, and all of the things alleged to have been done by each defendant were done in the capacity of and as agent of the other defendants.

6. Plaintiff is informed and believes, and based upon this information and belief alleges, that each of the defendants named herein as a Doe is in some way responsible for the acts and events alleged herein.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement and related claims pursuant to 17 U.S.C. §§ 101, et seq., and 28 U.S.C. §§ 1331, 1332 and 1338(a).

8. This Court has personal jurisdiction over Defendant which solicits, transacts and is doing continuous and systematic business within the State of California including with respect to the matters giving rise to this suit. Defendant's conduct has injured Plaintiff in California and Defendant has derived substantial revenue from goods used or services rendered in California.

9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c). Defendant conducts business in this District, including the City of Los Angeles, California, and a substantial part of the events giving rise to Plaintiff's claims occurred in this District. Plaintiff has its principal place of business in this District and has been injured in this District as a result of Defendant's infringing conduct.

GENERAL ALLEGATIONS

10. Plaintiff is the exclusive owner of copyrighted work which has been registered with the United States Copyright Office under the title "Boehme Table Lamp", Registration No. VA0001379250 along with all derivatives arising therefrom (the "Copyrighted Work"). The Copyrighted Work was published on April 5, 2004. [A copy of the Certificate of Registration and photo of the Boehme Copyrighted Work is attached hereto as Exhibit 1]

11. Plaintiff invests substantial sums of money, time, effort and creative talent to create, manufacture, advertise, promote, sell and license its lighting products embodying the unique and distinctive designs of the Copyrighted Work.

12. In or about September 2016, it came to Plaintiff's attention that Defendants had unlawfully and without authority from Plaintiff, reproduced, sold, distributed and displayed items which derive from or infringe on the Copyrighted Work. Examples of the infringing items include, without limitation, Tiffany Style Table Lamp (Item No. BR003), 2-Light Hanging Pendant Lamp (Item No. BR002RH), and Tiffany-style Baroque Floor Lamp (Item No. BR002/202 (aka BR002_202)) (collectively, "Infringing Items"). [Photos of the Infringing Items are attached hereto as Exhibit 2]

13. Defendants have sold, distributed and displayed the Infringing Items throughout the United States including California by and through numerous third party retailers including without limitation, Amazon, Sears and Walmart.

14. Defendants also use their infringing copies of Plaintiff's Copyrighted Work to draw attention to, and promote the sales of, its other products and services. Plaintiff is informed and believes, and on that basis alleges, that Defendants have knowingly and intentionally used the Infringing Items as a "door opener" to solicit customers to purchase other goods and services from Defendant. Defendants' infringing and unlawful use of Plaintiff's Copyrighted Work have at least partially contributed to, are reasonably related to, and/or bear a legally significant relationship to Defendants' sale of such other goods and services and to Defendants' profits therefrom.

15. On or about November 9, 2016, Plaintiff provided written notice to Defendants that the Infringing Items constitute copyright infringement of Plaintiff's rights and demanded that Defendants immediately cease and desist from any further use of the Copyrighted Work including the Infringing Items, disclose to Plaintiff the names and contact information of the third parties from whom Defendants purchased the Infringing Items, and provide a full accounting of all sales made by Defendants of the Infringing Items for purposes of calculating Plaintiff's damages and lost profits.

16. Despite the notice and demand, Defendants have failed and refused to cease their infringing activities, disclose the names and contact information of the third parties from whom Defendants purchased the Infringing Items, provide a full accounting of all sales made by Defendants of the Infringing Items, or agreed to reimburse Plaintiff for its damages and lost profits.

FIRST CAUSE OF ACTION

(Copyright Infringement)

(Against All Defendants)

17. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 16, inclusive, and by this reference incorporates the same herein as though fully set forth.

18. At all times relevant herein, Plaintiff has been the producer and owner of the Copyrighted Work reproduced, distributed and displayed by Defendants including the Infringing Items.

19. Through their conduct alleged herein, Defendants have infringed Plaintiff's copyright in the Copyrighted Work in violation of Section 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

20. Defendants' acts of infringement are willful, intentional and purposeful, in disregard of and with indifference of Plaintiff's rights. Plaintiff did not authorize

Defendants' copying, distribution or display of the Copyrighted Work including the Infringing Items.

21. As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to damages in an amount to be proven at trial.

22. Plaintiff is also entitled to Defendants' profits attributable to the infringement, pursuant to 17 U.S.C. § 504(b), including an accounting of and a constructive trust with respect to such profits.

23. Alternatively, Plaintiff is entitled to statutory damages under 17 U.S.C. § 504(c). Since Defendants' infringement was willful, the award of statutory damages should be enhanced pursuant to 17 U.S.C. § 504(c)(2).

24. Plaintiff is further entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505 and otherwise according to law.

25. Defendants' conduct is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot be compensated or measured in money. Plaintiff has no adequate remedy at law. Plaintiff is entitled to preliminary and permanent injunctions prohibiting further infringement of its exclusive rights.

SECOND CAUSE OF ACTION

(Contributory Copyright Infringement)

(Against All Defendants)

26. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 25, inclusive, and by this reference incorporates the same herein as though fully set forth.

27. Numerous individuals and entities directly infringed Plaintiff's copyrighted work.

28. Through their conduct alleged herein, Defendants induced, caused and materially contributed to the infringing acts of others by encouraging, inducing, allowing and assisting others to reproduce and distribute Plaintiff's Copyrighted Work.

29. The acts and conduct of Defendants, as alleged herein, constitute contributory copyright infringement.

30. As a direct and proximate result of said contributory infringement by Defendants, Plaintiff is entitled to damages in an amount to be proven at trial.

31. Plaintiff is also entitled to Defendants' profits attributable to the contributory infringement, pursuant to 17 U.S.C. § 504(b), including an accounting of and a constructive trust with respect to such profits.

32. Alternatively, Plaintiff is entitled to statutory damages under 17 U.S.C. § 504(c). Since Defendants' contributory infringement was willful, the award of statutory damages should be enhanced pursuant to 17 U.S.C. § 504(c)(2).

33. Plaintiff is further entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505 and otherwise according to law.

34. Defendants' conduct is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot be compensated or measured in money. Plaintiff has no adequate remedy at law. Plaintiff is entitled to preliminary and permanent injunctions prohibiting further infringement of its exclusive rights.

THIRD CAUSE OF ACTION

(Vicarious Copyright Infringement)

(Against All Defendants)

35. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 34, inclusive, and by this reference incorporates the same herein as though fully set forth.

36. Numerous individuals and entities directly infringed Plaintiff's copyrighted work.

37. Defendants had the right and ability to control the infringing acts of the individuals or entities who directly infringed Plaintiff's Copyrighted Work.

38. Defendants obtained a direct financial benefit from the infringing activities of the individuals or entities that directly infringed Plaintiff's Copyrighted Work.

39. The acts and conduct of Defendants, as alleged herein, constitute vicarious copyright infringement.

40. As a direct and proximate result of said vicarious infringement by Defendants, Plaintiff is entitled to damages in an amount to be proven at trial.

41. Plaintiff is also entitled to Defendants' profits attributable to the vicarious infringement, pursuant to 17 U.S.C. § 504(b), including an accounting of and a constructive trust with respect to such profits.

42. Alternatively, Plaintiff is entitled to statutory damages under 17 U.S.C. § 504(c). Since Defendants' vicarious infringement was willful, the award of statutory damages should be enhanced pursuant to 17 U.S.C. § 504(c)(2).

43. Plaintiff is further entitled to its attorney's fees and full costs pursuant to 17 U.S.C. § 505 and otherwise according to law.

44. Defendants' conduct is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot be compensated or measured in money. Plaintiff has no adequate remedy at law. Plaintiff is entitled to preliminary and permanent injunctions prohibiting further infringement of its exclusive rights.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

1. For an award of Defendants' profits and compensatory damages according to proof, or in the alternative, statutory damages in the amount of $150,000 with respect to each copyrighted work infringed or for such other award as may be proper under 17 U.S.C. § 504(c);

2. For an accounting of, and imposition of constructive trust with respect to Defendants' profits attributable to their infringement;

3. For a preliminary and permanent injunction to prevent or restrain further infringements of Plaintiff's rights in the Copyrighted Work;

4. For prejudgement interest;

5. For Plaintiff's attorneys' fees and costs;

6. For such other and further relief as the Court deems just and proper.

Dated: January 23, 2017

THE HAN LAW GROUP,
A Professional Law Corporation

By:________________________
STEVEN Y. HAN
Attorneys for Plaintiff
Dale Tiffany, Inc.